

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 15,588

IN THE MATTER OF:

Served May 15, 2015

CHALLENGER TRANSPORTATION, INC.,        )  
Suspension and Investigation of        )  
Revocation of Certificate No. 568        )        Case No. MP-2014-139

This matter is before the Commission on respondent's response to Order No. 15,293, served January 6, 2015.

**I. BACKGROUND**

Under the Compact, a WMATC carrier may not engage in transportation subject to the Compact if the carrier's certificate of authority is not "in force."<sup>1</sup> A certificate of authority is not valid unless the holder is in compliance with the Commission's insurance requirements.<sup>2</sup>

Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 568 for a minimum of \$1.5 million in combined-single-limit liability coverage and maintain on file with the Commission at all times proof of coverage in the form of a WMATC Certificate of Insurance and Policy Endorsement (WMATC Insurance Endorsement) for each policy comprising the minimum.

This proceeding concerns respondent's failure to maintain on file with the Commission at all times proof of \$1.5 million in revenue-vehicle liability insurance coverage.

**A. Commission Regulation No. 58-07**

Commission Regulation No. 58-07 governs commencement and termination of WMATC Insurance Endorsements, as follows:

Coverage under a WMATC Insurance Endorsement shall commence on the specified effective date and continue until the earliest of:

(a) the specified expiration date;

(b) the effective date specified in a notice of cancellation or thirty (30) days after the notice is received by the Commission, whichever is later;

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<sup>1</sup> Compact, tit. II, art. XI, § 6(a).

<sup>2</sup> Compact, tit. II, art. XI, § 7(g).

(c) thirty (30) days after receipt by the Commission of an acceptable application from the insured for voluntary termination of WMATC operating authority;

(d) thirty (30) days after revocation by the Commission; or

(e) the effective date of a later-executed replacement Endorsement.

Commencement and termination shall occur at 12:01 a.m. Eastern Standard Time or Eastern Daylight Time, as applicable.

#### **B. Key Dates in this Proceeding**

Certificate of Authority No. 568 was originally issued on October 16, 2000, voluntarily terminated on July 18, 2013, and reissued on December 11, 2013.

On October 4, 2013, Global Liberty Insurance Company of New York filed on respondent's behalf a \$1.5 million primary WMATC Insurance Endorsement with an effective date of October 24, 2013, and an expiration date of September 9, 2014.

On August 28, 2014, Wesco Insurance Company filed on respondent's behalf a \$1 million primary WMATC Insurance Endorsement with an effective date of June 27, 2014, and an expiration date of June 27, 2015.

On September 26, 2014, Global Liberty Insurance Company of New York filed on respondent's behalf a \$1.5 million primary WMATC Insurance Endorsement with an effective date of September 26, 2014, and an expiration date of September 26, 2015.

From December 11, 2013, to present, none of the three endorsements was canceled or revoked, respondent filed no voluntary termination application, and no excess WMATC Insurance endorsement was filed on respondent's behalf.

#### **C. 91-Day Insurance Endorsement Gap**

Looking at the key dates above, the \$1.5 million Global Liberty endorsement filed October 4, 2013, was effective from the reissuance of Certificate No. 568 on December 11, 2013, until 12:01 a.m. on June 27, 2014, the effective date of the later-executed \$1 million Wesco Insurance endorsement.

And the \$1 million Wesco Insurance endorsement was effective from June 27, 2014, until 12:01 a.m. on September 26, 2014, the effective date of the later-executed \$1.5 million Global Liberty endorsement filed September 26, 2014.

The foregoing caused Certificate No. 568 to become automatically suspended as of June 27, 2014, and left respondent's WMATC Insurance Endorsement coverage \$500,000 short of the \$1.5 million minimum for 91 days from June 27, 2014, through September 25, 2014.

## **II. ORDER TO VERIFY AND FAILURE TO RESPOND**

Order No. 15,085, served September 30, 2014, lifted the suspension of Certificate No. 568 and gave respondent 30 days to verify cessation of operations during the suspension of Certificate No. 568 as corroborated by copies of respondent's pertinent business records, in accordance with Regulation No. 58-14.<sup>3</sup> Respondent failed to respond.

## **III. ORDER TO SHOW CAUSE**

Considering that respondent had not denied operating its vehicle(s) on and after the suspension date, and considering that respondent had failed to produce the required documents, Order No. 15,293 gave respondent until February 5, 2015, to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 568, for knowingly and willfully conducting operations under an invalid/suspended certificate of authority and failing to produce documents as directed.

## **IV. RESPONSE TO ORDER NO. 15,293**

Respondent has filed a statement that appears to acknowledge respondent's failure to maintain the minimum insurance required by Regulation No. 58 but fails to confirm or deny whether respondent continued operating while Certificate No. 568 was suspended, as required by Order No. 15,085. In addition, respondent has yet to produce any of the documents required by Order No. 15,085.

## **V. ASSESSMENT OF FORFEITURE AND REVOCATION OF AUTHORITY**

A person who knowingly and willfully violates a provision of the Compact, or a rule, regulation, requirement, or order issued under it, or a term or condition of a certificate shall be subject to a civil forfeiture of not more than \$1,000 for the first violation and not more than \$5,000 for any subsequent violation.<sup>4</sup>

The Commission may suspend or revoke all or part of any certificate of authority for willful failure to comply with a provision of the Compact, an order, rule, or regulation of the Commission, or a term, condition, or limitation of the certificate.<sup>5</sup>

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<sup>3</sup> Order No. 15,085 mistakenly identified the automatic suspension date as September 9, 2014, instead of June 27, 2014.

<sup>4</sup> Compact, tit. II, art. XIII, § 6(f).

<sup>5</sup> Compact, tit. II, art. XI, § 10(c).

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.<sup>6</sup> The terms "willful" and "willfully" do not mean with evil purpose or criminal intent; rather, they describe conduct marked by careless disregard whether or not one has the right so to act.<sup>7</sup>

Because respondent has failed to verify whether it ceased operating while suspended and has failed to produce the documents required by Order No. 15,085, and because respondent has offered no explanation for these failures, we find that respondent has failed to show cause why the Commission should not assess a civil forfeiture of \$250<sup>8</sup> and revoke Certificate No. 568.<sup>9</sup>

THEREFORE, IT IS ORDERED:

1. That pursuant to Article XIII, Section 6(f), of the Compact, the Commission hereby assesses a civil forfeiture against respondent in the amount of \$250 for knowingly and willfully violating Order No. 15,085.

2. That respondent is hereby directed to pay to the Commission within 30 days of the date of this order, by money order, certified check, or cashier's check, the sum of two hundred fifty dollars (\$250).

3. That pursuant to Article XI, Section 10(c), of the Compact, Certificate of Authority No. 568 is hereby revoked for respondent's willful failure to comply with Order No. 15,085.

4. That within 30 days from the date of this order respondent shall:

- a. remove from respondent's vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61;
- b. file a notarized affidavit with the Commission verifying compliance with the preceding requirement; and
- c. surrender Certificate No. 568 to the Commission.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER AND HOLCOMB:



William S. Morrow, Jr.  
Executive Director

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<sup>6</sup> *In re Fon Pius Nde, t/a Piusmed World Transp.*, No. MP-07-187, Order No. 11,362 (May 15, 2008).

<sup>7</sup> *Id.*

<sup>8</sup> See *id.* (assessing \$250 for failing to produce verification and documents).

<sup>9</sup> See *id.* (revoking authority for failing to produce verification and documents).